

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

---

STEADFAST INSURANCE COMPANY,

Plaintiff,

v.

Case No. 06-CV-15537-DT

NATIONAL ABSTRACT AGENCY, et al.

Defendants.

---

**OPINION AND ORDER DENYING PLAINTIFF'S "MOTION TO STRIKE"**

Pending before the court is Plaintiff Steadfast Insurance Company's August 24, 2007 "Motion to Strike" Defendants National Abstract Agency, Inc. and Edward Harris's response to Plaintiff's motion for summary judgment on the ground that Defendants' response is time-barred.

On June 29, 2007, Plaintiff filed its "Motion for Summary Judgment," and electronically served Defendants' counsel with the motion. (Pl.'s Mot. to Strike at 1.) Plaintiff also indicates that it called Defendants' counsel on June 28, 2007 and informed counsel that Plaintiff would be filing a motion for summary judgment the next day. (*Id.*)

Pursuant to Eastern District of Michigan Local Rule 7.1(d), Defendants' response was due by July 20, 2007. Defendants filed their response on August 22, 2007, and explained that they did not receive Plaintiff's electronically filed motion because they were suffering from equipment failure. (Defs.'s Resp. at 3.) Defendants indicate that they received the motion on August 10, 2007, after they called Plaintiff's counsel to request a paper copy. (*Id.*)

The court accepts Defendants' equipment failure claim and will permit Defendants to file their untimely response. Notably, this case and the related case with which it was consolidated for discovery purposes, *Ticor v. National Abstract, et al.* (Case No. 05-73709), have been pending for a substantial period of time - the former for nearly nine months and the latter for nearly two years. Consequently, the court is not persuaded that Plaintiff will be prejudiced by Defendants' one-month late filing. The court does, however, find that Defendants' rather significant untimeliness in light of Plaintiff's claim that it gave Defendants notice of its motion before it was filed, warrants Defendants being barred from filing a supplemental brief or engaging in oral argument, should this matter proceed to a hearing. Accordingly,

IT IS ORDERED that Plaintiff's "Motion to Strike" [Dkt. # 25] is DENIED, and the court will thus consider Defendants' "Answer to Plaintiff Steadfast Insurance Company's Motion for Summary Judgment" [Dkt. # 24].

IT IS FURTHER ORDERED that Plaintiff has until **September 4, 2007** to file a reply to Defendants' response.

IT IS FURTHER ORDERED that Defendants are barred from filing any supplemental briefing and from engaging in oral argument in the matter of Plaintiff's motion for summary judgment, should this matter proceed to a hearing.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: September 5, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, September 5, 2007, by electronic and/or ordinary mail.

s/Lisa G. Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522